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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,204	10/27/2003	Ischysia Coleman		6094

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EXAMINER

HAND, MELANIE JO

ART UNIT PAPER NUMBER

3761

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/694,204

Applicant(s)

COLEMAN, ISCHYSIA

Examiner

Melanie J. Hand

Art Unit

3761

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: (1) the phrase "substantially side portions" is unclear and is believed to be a typographical error, and (2) the phrase "substantially narrow" does not clearly define the nature of the invention with respect to the side portions. While criticality and sufficient description for the phrase are provided in the disclosure with respect to the triangular back panel and the crotch portion, the phrase does not have sufficient meaning to someone of ordinary skill in the art when it is applied to the side portions.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by McCoy (U.S. Patent No. 5,167,655).

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With respect to **Claim 1**: McCoy teaches a cold therapy panty 2 with front portion 2, back portion 4 and crotch area 8 formed between front portion 2 and back portion 4 (Fig. 1) (Col. 2, lines 23-25, 32-34). As can best be seen in Figure 1, both the front and back portions 2 and 4 are triangular in shape. McCoy teaches absorbent pad 22 to absorb blood, discharge or other bodily fluids (Col. 2, lines 43-46). As can best be seen from Figs. 4A-C, the side portions are substantially narrow in comparison to the front and back portions. McCoy teaches that panty 2 has fasteners 26 that are connected to and mate with fasteners 28 on both the left and right sides of panty 2 to provide a snug and comfortable fit (Col. 4, lines 27-30).

With respect to **Claim 2**: McCoy teaches that panty 2 has fasteners 26 that are connected to and mate with fasteners 28 (Fig. 1) on both the left and right sides of panty 2 (Col. 4, lines 27-29).

With respect to **Claim 3**: McCoy teaches that panty 2 is manufactured from any suitable material, which includes breathable materials (Col. 3, lines 67,68).

With respect to **Claim 4**: McCoy teaches elastic members 24 attached to the waist of panty 2. McCoy teaches that these elastic members 24 may be comprised of any stretchable material providing for keeping receptacle 14 in place in the crotch area 8 (Col. 3, lines 34-36).

With respect to **Claim 5**: McCoy teaches front and back portions 2 and 4 that are triangular in shape, as can best be seen in Figure 1, with the narrower portion located at end of back portion 4 that is closer to the crotch area 8.

With respect to **Claims 6 and 7**: McCoy teaches that panty 2 has pouch openings on front portion 2 and back portion 4 (Col. 3, lines 6-11).

With respect to **Claims 8 and 9**: McCoy teaches cold pack 18 comprised of a precooled gel in vinyl bag 20 that fits into pouch 34 of receptacle 14 as well as any openings in the front and back portions (Col. 2, lines 65-68, Col. 3, lines 6-11).

With respect to **Claims 10 and 11**: McCoy teaches that panty 2 is manufactured from any suitable material, which includes cotton (Col. 3, lines 67,68).

With respect to **Claim 12**: McCoy teaches that receptacle 14 encloses absorbent pad 22 and cold pack 18, and that the absorbent pad 22 is located adjacent inner side 10 and the cold pack 18 is located adjacent outer side 12, and further, that separation layer 30 is only sufficiently permeable to allow heat flow and thus allow the heat differential to be felt by the wearer (Col. 2, lines 58-61). McCoy teaches that vinyl bag 20 encloses the cooling gel in cold pack 18 to further prevent soiling of cold pack and thus the panty outer side 12 from an overloaded absorbent pad 22 or leakage (Col. 4, lines 47-49)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

**TATYANA ZALUKAEVA**  
**PRIMARY EXAMINER**

